

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

RAYSURNET MORRIS,)
Plaintiff,)
)
v.) No. 08 CH 44461
)
CITY OF CHICAGO POLICE BOARD,)
Defendants.)

MEMORANDUM OPINION AND ORDER

Plaintiff Raysurnet Morris has filed a Complaint for Administrative Review against the Police Board of the City of Chicago and the Superintendent of the Chicago Police Department.

I. Background

Plaintiff Raysurnet Morris was a police officer with the City of Chicago Police Department ("Department"). (R. at Charges). On October 18, 2007, the Superintendent of Police ("Superintendent") filed charges with the Police Board of the City of Chicago ("the Board") recommending that Plaintiff be discharged from the Department for violating Rules 2 (Counts I-VI), 6 (Counts I-III), 14 (Count I) and 30 (Count I) of the Rules and Regulations of the Chicago Police Department (R. at Charges; Findings). The charges involved Plaintiff's conduct relating to Ronald Holt. The Record shows that Holt was a Chicago police officer who had an intimate relationship with Plaintiff. (R. Tr. of 5/15/08 at 206).

Rule 2 prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit on the Department. (R. at Findings). Rule 6 prohibits disobedience of any oral or written direct order. (*Id.*). Rule 14 prohibits making a written or oral false report. (*Id.*). Rule 30 prohibits leaving duty assignment without being properly received or receiving proper authorization. (*Id.*).

A. The Original Charges Against Plaintiff

The Department alleged that Plaintiff had violated those Rules and Regulations by: (1) on numerous occasions from October 5, 2002 through April 29, 2005 violating direct orders by "[driving] past and/or park[ing] near Ronald Holt's residence and/or peer[ing] through Ronald Holt's residence's window and/or contact[ing] Ronald Holt and/or a friend and/or family member of Ronald Holt;" (2) on April 27, 2005 "leav[ing] her duty assignment without being properly relieved and/or without proper authorization, in that . . . while on duty and/or while driving a Chicago Police Department squadrol, she drove past and/or parked near Ronald Holt's residence and/or peered through Ronald Holt's residence's window and/or contacted Ronald Holt and/or a friend and/or family member of Ronald Holt;" and (3) on September 26, 2006, Plaintiff "made a false report, written or oral, in that she gave a statement to the Chicago Police Department Office of Professional Standards investigator(s) and/or tendered to the Chicago

presented at the hearing. (*Id.* at ¶L). Finally, Plaintiff alleges that the granting of the Superintendent's motion to amend the Charges was clearly erroneous and a violation of due process. (*Id.* at ¶¶F and G).

III. Standards for Administrative Review

On administrative review, the standard of review applied by the trial court depends upon the issue presented on review. Questions of law are reviewed *de novo*. Knight v. Village of Bartlett, 338 Ill. App. 3d 892 (1st Dist. 2003). Mixed questions of law and fact are subject to the "clearly erroneous" standard of review. Marconi v. Chicago Heights Police Pension Board, 361 Ill. App. 3d 1, 16 (1st Dist. 2005). Questions of fact are subject to the "manifest weight of the evidence" standard of review. O'Boyle v. Personnel Board of Chicago, 119 Ill. App. 3d 648, 653 (1st Dist. 1983).

"The clearly erroneous standard of review is 'between a manifest weight of the evidence standard and a *de novo* standard so as to provide some deference to the [agency's] experience and expertise.'" Marconi v. Chicago Heights Police Pension Board, 361 Ill. App. 3d 1, 16 (1st Dist. 2005). Although a court must afford deference to the agency's experience and expertise, the agency's decision should be reversed where the court is 'left with the definite and firm conviction that a mistake has been committed.'" *Id.*

Under the manifest weight of the evidence standard of review, "[t]he findings and conclusions of fact of the agency, charged with the primary responsibility of adjudication in a specialized area, are to be held *prima facie* true and correct." O'Boyle v. Personnel Board of Chicago, 119 Ill. App. 3d 648, 653 (1st Dist. 1983). To find that a decision is against the manifest weight of the evidence, the trial court "must be able to conclude that 'all reasonable and unbiased persons, acting within the limits prescribed by the law and drawing all inferences in support of the finding, would agree that the finding is erroneous' and that the opposite conclusion is clearly evident." *Id.* "That an opposite conclusion might be reasonable or that the court might have reached a different conclusion is not adequate to set aside the agency's decision." *Id.*

A court in reviewing an agency's decision to discharge an employee must make a two-step analysis. Austin v. Civil Svc. Comm'n, 247 Ill. App. 3d 399, 403 (1st Dist. 1993). A court must first decide if the agency's findings of fact are contrary to the manifest weight of the evidence. *Id.* Then the court determines whether the findings of fact, which are considered *prima facie* true and correct, provide a sufficient basis for the agency's determination that there is cause for discharge. *Id.* The determination of whether cause to discharge exists may be reversed if the decision is arbitrary, unreasonable, or unrelated to the requirements of service. Bell v. Civil Service Commission, 161 Ill. App. 3d 644, 648 (1st Dist. 1987).

IV. Brief in Support of Complaint Administrative Review

In her Brief for Illinois Administrative Review, Plaintiff focuses primarily on the amendment of the Charges following the hearing. She argues that the amendments were prejudicial. Plaintiff also claims, without argument, that the factual findings are not based on

"clear and convincing evidence" and that the violations "were not sufficiently serious to merit the punishment imposed." (Pl. Br. at 4).

A. Amendment of the Charges

The question of whether the granting of leave to amend the charges was erroneous appears to be a mixed question of law and fact. Thus, this issue will be reviewed under a "clearly erroneous" standard.

Charges in an administrative proceeding are not required to be set forth with the same precision but must be "specific enough to apprise the respondent of the charges brought against him so as to enable him to intelligently prepare his defense." Batley v. Kendall County Sheriff's Dept. Merit Comm'n, 99 Ill. App. 3d 622, 626 (2d Dist. 1981). Minor changes to charges are not improper. Sheehan v. Board of Fire & Police Comm'rs of City of Des Plaines, 158 Ill. App. 3d 275, 279-80 (1st Dist. 1987).

In this case, the amendments to the Charges were not substantive as argued by Plaintiff. Both the original Charges and the amended Charges required proof that Plaintiff violated direct orders. Changing "disobeyed" to "received" did not change what was required to establish the charges against Plaintiff. The allegations of misconduct against Plaintiff did not change and no new charges were added. Plaintiff should have been well aware from the original Charges that she was charged with having received three direct orders not to contact Holt and despite the orders had such contacts after each order. The gist of the charges in counts II, III and IV were that Plaintiff acted in violation of orders and these claims were clearly litigated before the hearing Officer. Plaintiff was not prevented from properly preparing and presenting a defense by the amendment of the Charges after the close of the hearing.

As to Plaintiff's claim that her right to due process was violated by allowing the amendment, administrative proceedings are "governed by the fundamental principles and requirements of due process of law, which contemplates a full, fair, and impartial hearing be held." Worthen v. Secretary of State, 160 Ill. App. 3d 325, 337 (4th Dist. 1987). The Record shows that Plaintiff had a full, fair and impartial hearing at which she was allowed to cross-examine witnesses and present evidence in her defense. This is all that due process requires in the context of administrative proceedings. Abrahamson v. Illinois Dept. of Prof. Reg., 153 Ill. 2d 76, 95 (1992).

Finally, Plaintiff argues that the rules of civil procedure do not provide for such amendments. To the extent that the Illinois Code of Civil Procedure applies to proceedings before the Board, §2-616 allows amendment at any time prior to judgment. 735 ILCS 5/2-616. Therefore, the Board was allowed to grant the amendment of the Charges after the hearing concluded under §2-616. The Board's decision to allow the amendment of the charges was not clearly erroneous and will not be reversed.

B. Manifest Weight of the Evidence, Plaintiff's Discharge and Findings of Fact

Although Plaintiff's Brief is dedicated primarily to the issue of the amendment of the Charges, her Complaint also alleges that the Board's Decision was against the manifest weight of the evidence. The Superintendent argues in his Brief in Opposition to Complaint for Illinois Administrative Review that the Decision was not against the manifest weight of the evidence. However, due to the Board's failure to make any findings of fact, this court has no basis on which to determine whether the Board's Decision was against the manifest weight of the evidence.

Under the Illinois Administrative Procedure Act, a final decision adverse to a party other than the agency must set forth findings of fact and conclusions of law separately stated. 5 ILCS 100/10-50. "While an agency need not make a finding on each evidentiary fact or claim, its findings must be specific enough to permit an intelligent review of its decision." Violette v. Department of Healthcare & Family Svcs., 388 Ill. App. 3d 1108, 1112 (5th Dist. 2009). In this case, the Findings adopted by the Board in its Decision do not contain any findings of fact. Rather, the Findings simply repeat the amended Charges against Plaintiff, word-for-word, with no further facts set forth. This court cannot make an intelligent review of whether the Board's Decision was against the manifest weight of the evidence where the Board did nothing more than repeat the Superintendent's amended Charges. Nor can this court decide whether Plaintiff's discharge was arbitrary and capricious. See, e.g., Bell v. Civil Svc. Comm'n, 161 Ill. App. 3d 644, 649-50 (1st Dist. 1987). (Board's conclusory findings were insufficient to support discharge).

V. Conclusion

This case is remanded to the Board for the purpose of the Board making findings of fact and conclusions of law as required by §10-50 of the Illinois Procedure Act. The status date of December 1, 2009 at 10:30 a.m. is to stand.

ENTERED	
JUDGE MARY K. ROCHFORD-1570	
NOV -3 2009	
DOROTHY BROWN CLERK OF THE CIRCUIT COURT OF COOK COUNTY, IL DEPUTY CLERK	

Judge Mary K. Rochford

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Rayburnet Morris)

v.

No. D8CH 44461

City of Chicago et al)

ORDER

It's hereby ordered: After both parties present for oral arguments on the Respondent's Motion to Reconsider, the Ct. is fully advised:

- Respondent's Motion to Reconsider is denied.
- Case is remanded to the Police Board for detailed & specific findings of fact.
- This case is continued to June 2, 2010 @ 9:30am rm. 2308

Atty. No.: 90909Name: Anna D'Ascenzo

ENTERED:

for status on Police
Board's order.Atty. for: City / Super

Dated:

Address: 30 N. LaSalle #1040ENTERED
JUDGE MARY K. ROCHFORD-1570City/State/Zip: Chgo IL 60602

MAR 19 2010

Telephone: 312-744-6909

Judge

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT
OF COOK COUNTY, IL
DEPUTY CLERK

Judge's No.

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION**

RAYSURNET MORRIS,)
Plaintiff,)
v.) 08 CH 44461
POLICE BOARD OF THE CITY OF)
CHICAGO,)
Defendant.)

MEMORANDUM AND ORDER

Plaintiff Rayburn Morris filed a Brief in Support of Motion to Dismiss. In actuality, Plaintiff's Brief is in support of her Complaint for Administrative Review seeking the reversal of the Police Board of the City of Chicago's finding that cause existed for his discharge.

I. Background

A. The Original Charges Against Plaintiff

Plaintiff Rayburn Morris was a police officer with the City of Chicago Police Department ("Department"). (R. at Charges). On October 18, 2007, the Superintendent of Police ("Superintendent") filed charges with Police Board of the City of Chicago ("the Board") recommending that Plaintiff be discharged from the Department for violating Rules 2, 6, 14 and 30 of the Rules and Regulations of the Chicago Police Department ("Rules"), (R. at Charges; Findings). The charges were based on Plaintiff's alleged improper conduct toward a fellow police officer, Ronald Holt, following the end of a romantic relationship between them.

Rule 2 prohibits any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit on the Department. (R. at Findings). Rule 6 prohibits disobedience of any oral or written direct order. (*Id.*). Rule 14 prohibits making a written or oral false report. (*Id.*). Rule 30 prohibits leaving duty assignment without being properly relieved or receiving proper authorization. (*Id.*). The Department alleged that Plaintiff had violated these Rules and Regulations by: (1) on numerous occasions from October 5, 2002 through April 29, 2005 violating direct orders by “[driving] past and/or park[ing] near Ronald Holt’s residence and/or peer[ing] through Ronald Holt’s residence’s window and/or contact[ing] Ronald Holt and/or a friend and/or family member of Ronald Holt;” (2) on April 27, 2005 “leav[ing] her duty assignment without being properly relieved and/or without proper authorization, in that . . . while on duty and/or while driving a Chicago Police Department squadrol, she drove past and/or parked near Ronald Holt’s residence and/or peered through Ronald Holt’s residence’s window and/or contacted Ronald Holt and/or a friend and/or family member of Ronald Holt;” and (3) on September 26, 2006, Plaintiff “made a false report, written or oral, in that she gave a statement to

the Chicago Police Department Office of Professional Standards investigator(s) and/or tendered to the Chicago Police Department Office of Professional Standards investigator(s) notarized witness statements containing false information . . . ”

B. Amendment of the Charges Post-Hearing

An evidentiary hearing took place before a hearing officer on May 15, 2008, May 20, 2008 and June 3, 2008. On September 4, 2008, the case was remanded to the hearing officer by the Board to consider the Superintendent’s oral motion before the Board to amend the Charges. (R. at Findings, ¶4). In its Memorandum in support of the oral motion, the Superintendent sought to amend the Charges in Counts 2, 3 and 4 of the Charges to change the word “disobeyed” to “received” in Line 1 of Counts II, III and IV of the Rule 2 violation and in Line 1 of Counts I, II and III of the Rule 6 violation. (R. at Memorandum in Support of the Oral Motion to Amend the Charges; Changing “Disobeyed” to “Received”). The Superintendent stated that the use of “disobeyed” was a “typographical” error. (*Id.*). The Superintendent further stated that the substance of the Charges against Plaintiff were the same regardless of whether “disobeyed” or “received” was used. (*Id.* at ¶10). Plaintiff filed a Memorandum in Opposition to Amendment to the Record. (R. at Memorandum in Opposition to Amendment to Record). Plaintiff argued that she had prepared her defense based upon the original Charges and it would be grossly prejudicial and unfair to allow the amendment. (*Id.*)

C. The Hearing Officer’s Findings and the Board’s Decision

Following the hearing, the hearing officer issued his Findings. (R. at Findings). The hearing officer granted the Superintendent’s oral motion to amend the Charges as part of its Findings. (R. at Findings at ¶4). While the hearing officer stated he made findings of fact, the Findings contained no findings of fact. (R. at Findings). Rather, the Findings merely repeated word-for-word the amended Charges against Plaintiff. (R. at Findings at ¶¶5-7). On October 22, 2008, the Board issued its Decision adopting the Findings and found Plaintiff to be guilty of all amended Charges against her and discharged her from her position as a Police Officer. (R. at Decision).

D. Complaint for Administrative Review

On November 26, 2008, Plaintiff filed her Complaint for Administrative Review against the Board and the Superintendent. Plaintiff alleges that the evidence at the hearing was not competent to support the Board’s findings. (Compl. ¶¶E and J). Plaintiff further alleges that the Board’s decision to discharge her was arbitrary and capricious and not based on the evidence presented at the hearing. (*Id.* at ¶L). Finally, Plaintiff alleges that the granting of the Superintendent’s motion to amend the Charges was clearly erroneous and a violation of due process. (*Id.* at ¶¶F and G).

E. The Court’s Order of November 3, 2009

On November 3, 2009, the Court entered an order remanding for the purpose of making findings of fact as required by §10-50 of the Illinois Procedure Act. The Court found that the

Board had simply repeated the amended charges made against Plaintiff word-for-word making intelligent review of the Board's decision impossible. The Board's Motion to Reconsider the decision to remand was denied.

F. The Board's Decision on Remand

On July 1, 2010, the Board issued its Findings and Decision on Remand ("Decision on Remand"). The Board found that the testimony of Captain Cynthia White showed that on October 5, 2002, January 24, 2003 and April 29, 2005, Plaintiff had been given direct orders, both orally and in writing, not to contact Holt or any member of his family, not to keep Holt under surveillance, and not to drive around Holt's residence or be in the area of Holt's residence unless for official purposes. (Decision on Remand at 3; R. Tr. of 5/15/08 at 124, 130; R. Exs. S#5, S#6, S#7).

The Board found that the testimony presented showed that Plaintiff was guilty of the conduct alleged in Counts I, II, III, and IV, of the Amended Charges as, in violation of direct orders, Plaintiff had from August 1, 2003 through November 30, 2005, driven past Holt's residence, parked at Holt's residence, peered in his windows, and contacted Holt. (Decision on Remand at 2-7). The Board's finding was based on the testimony of Holt, Laurie Edwards, Jenny Gerst and Jeannien Jones all of which the Board expressly found to be credible. (Decision on Remand at 3-6).

Holt testified that he initiated three complaint registers against Plaintiff. (R. Tr. of 5/15/08 at 211-12). Holt further testified to numerous incidents of Plaintiff contacting him, driving past or parking by his home and the homes of his mother, his ex-wife and his ex-in-laws beginning in August 2003 and through November 2005. (R. Tr. of 5/15/08 at 212-72). Holt kept a log of the incidents of Plaintiff's unwanted contact. (R. at Ex. S#13). Holt's testimony was corroborated by Laurie Edwards, Jenny Gerst and Jeannien Jones. (R. Tr. of 5/15/08 at 38-58; 61-90; 93-118). The Board found that while the testimony of Plaintiff's witnesses conflicted in many cases with the testimony of Holt, Edwards, Gerst and Jones, Plaintiff's testimony and that of her witnesses, several of whom were family members, was not credible. (Decision on Remand at 6). The Board concluded that Plaintiff's conduct in connection with Counts I, II, III and IV violated Rules 2 and 6.

The Board further found that Plaintiff was guilty of the conduct alleged in Count V of the Amended Charges by leaving her duty assignment, without being properly relieved and without authorization, on April 27, 2005 to park near Holt's residence. (Decision on Remand at 9). This finding was based on: (1) Holt's testimony that he saw Morris in a vehicle parked near his residence on that date; (2) Sergeant Mark McGowan's testimony that Holt called and said that a marked police car with beat tag 532 was parked near Holt's residence and Holt believed Morris was in the vehicle; (3) the vehicle was assigned to Morris and; (4) Morris was assigned to duty not within the area Holt's residence. (R. at Tr. of 5/15/08 at 154-168, 264). The Board concluded that Plaintiff's conduct in connection with Count V violated Rules 2 and 30.

Finally, the Board found that Plaintiff was guilty of the conduct alleged in Count VI that on September 26, 2006, Plaintiff made a false report to the Chicago Police Department Office of

Professional Standards investigator. (Decision on Remand at 10-11). The finding was based on the testimony of Robert Cosey, an investigator for the Office of Professional Standards, establishing that Plaintiff had directed her attorney to prepare false affidavits which were submitted in connection with the investigation against Plaintiff and that Plaintiff had falsely told Cosey that she had never been to Holt's residence after October 5, 2002. (R. Tr. of 5/15/08 at 183-189, 191-95). The Board concluded that Plaintiff's conduct in connection with Count VI violated Rules 2 and 14.

The Board ordered that as a result of being found guilty of the Amended Charges, Plaintiff was discharged from her position with the Department of Police and from the service of the City of Chicago. (Decision on Remand at 14A).

II. Standards for Administrative Review

On administrative review, the standard of review applied by the trial court depends upon the issue presented on review. Questions of law are reviewed *de novo*. Knight v. Village of Bartlett, 338 Ill. App. 3d 892 (1st Dist. 2003). Mixed questions of law and fact are subject to the "clearly erroneous" standard of review. Marconi v. Chicago Heights Police Pension Board, 361 Ill. App. 3d 1, 16 (1st Dist. 2005). Questions of fact are subject to the "manifest weight of the evidence" standard of review. O'Boyle v. Personnel Board of Chicago, 119 Ill. App. 3d 648, 653 (1st Dist. 1983).

"The clearly erroneous standard of review is 'between a manifest weight of the evidence standard and a *de novo* standard so as to provide some deference to the [agency's] experience and expertise.'" Marconi v. Chicago Heights Police Pension Board, 361 Ill. App. 3d 1, 16 (1st Dist. 2005). Although a court must afford deference to the agency's experience and expertise, the agency's decision should be reversed where the court is 'left with a definite and firm conviction that a mistake has been committed.'" Id.

Under the manifest weight of the evidence standard of review, "[t]he findings and conclusions of fact of the agency, charged with the primary responsibility of adjudication in a specialized area, are to be held *prima facie* true and correct." O'Boyle v. Personnel Board of Chicago, 119 Ill. App. 3d 648, 653 (1st Dist. 1983). "To find that a decision is against the manifest weight of the evidence, the trial court "must be able to conclude that 'all reasonable and unbiased persons, acting within the limits prescribed by the law and drawing all inferences in support of the finding, would agree that the finding was erroneous and that the opposite conclusion is clearly evident.'" Id. "That an opposite conclusion might be reasonable or that the court might have reached a different conclusion is not adequate to set aside the agency's decision." Id.

"[B]ecause the weight of the evidence and the credibility of the witnesses are within the province of the [agency], there need only be some competent evidence in the record to support its findings." Trettenero v. Police Pension Fund of the City of Aurora, 333 Ill. App. 3d 792, 802 (2d Dist. 2002)(citation omitted). "[A] reviewing court may not re-evaluate the credibility of witnesses or resolve conflicting evidence." Alden Nursing Center-Morrow, Inc. v. Lumpkin, 259 Ill. App. 3d 1027, 1033 (1st Dist. 1994). "If the issue before the reviewing court is merely

one of conflicting testimony and credibility of witnesses, the administrative board's decision should be sustained." O'Boyle, 119 Ill. App. 3d at 653.

A court in reviewing an agency's decision to discharge an employee must make a two-step analysis. Austin v. Civil Svc. Comm'n, 247 Ill. App. 3d 399, 403 (1st Dist. 1993). A Court must first decide if the agency's findings of fact are contrary to the manifest weight of the evidence. *Id.* Then the court determines whether the findings of fact, which are considered *prima facie* true and correct, provide sufficient basis for the agency's determination that there is cause for discharge. *Id.* The determination of whether cause to discharge exists may be reversed if the decision is arbitrary, unreasonable, or unrelated to the requirements of service. Bell v. Civil Service Commission, 161 Ill. App. 3d 644, 648 (1st Dist. 1987).

III. Complaint for Administrative Review

A. Amendment of the Charges

In her Brief for Illinois Administrative Review submitted before the remand, Plaintiff focused solely on her allegations that her due process rights were violated by the amendment of the Charges following the hearing. The Superintendent argued that the amendment of the Charges did not violate due process.

Initially, to the extent that the Illinois Code of Civil Procedure applies to proceedings before the Board, §2-616 allows amendment at any time prior to judgment. 735 ILCS 5/2-616. Therefore, the Board could allow amendment of the Charges after the hearing concluded under §2-616.

Charges in an administrative proceeding are not required to be set forth with the same precision but must be "specific enough to apprise the respondent of the charges brought against him so as to enable him to intelligently prepare his defense." Batley v. Kendall County Sheriff's Dept. Merit Comm'n, 99 Ill. App. 3d 522, 626 (2d Dist. 1981). Minor changes to charges are not improper. Sheehan v. Board of Fire & Police Comm'ns of City of Des Plaines, 158 Ill. App. 3d 275, 279-80 (1st Dist. 1987).

In this case, the amendments to the original Charges were not substantive as argued by Plaintiff. Both the original Charges and the Amended Charges asserted that Plaintiff violated direct orders. Changing "disobeyed" to "received" did not change what was required to establish the Charges against Plaintiff. The allegations of misconduct against Plaintiff and the dates of the incidents in question did not change and no new charges were added. Plaintiff should have been well aware from the original Charges that she was charged with having received direct orders which she violated. Plaintiff was not prevented from properly preparing a defense by the amendment of the Charges after the close of the hearing.

As to Plaintiff's claim that her right to due process was violated, administrative proceedings are governed by the fundamental principles and requirements of due process of law, which contemplates that a full, fair, and impartial hearing be held. Worthen v. Secretary of State, 160 Ill. App. 3d 325, 337 (4th Dist. 1987). The Record shows that Plaintiff had a full, fair

and impartial hearing at which she was allowed to cross-examine witnesses and present evidence in her defense. This is all that due process requires in the context of administrative proceedings. Abrahamson v. Illinois Dept. of Prof. Reg., 153 Ill. 2d 76, 95 (1992).

B. Manifest Weight of the Evidence

The Board made extensive factual findings on remand and those findings are supported by competent evidence in the Record. Plaintiff argues that the Superintendent's witnesses, particularly Holt, were not credible. This Court cannot usurp the Board's credibility determinations or reweigh the evidence. Alden, 259 Ill. App. 3d at 1033. The Board's findings on remand are not against the manifest weight of the evidence.

C. Plaintiff's Discharge

The Board's decision on remand to discharge Plaintiff should be affirmed because the decision on remand was not against the manifest weight of the evidence and cause existed for Plaintiff's discharge. Cause is "some substantial shortcoming which renders the employee's continuance in office in some way detrimental to the discipline and efficiency of the service and which the law and sound public opinion recognize as good cause for his no longer holding the position." Austin, 247 Ill. App. 3d at 403 (citation omitted). Plaintiff's conduct clearly meets this standard.

IV. Conclusion

The Board's Decision on Remand to discharge Plaintiff from her position with the Department of Police and from the service of the City of Chicago is affirmed. The status date of February 15, 2011 is stricken.

Enter: _____

Judge: _____

